

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tileyah Williams	Team: Squad #3	CCRB Case #: 202006874	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/13/2020 8:07 PM	Location of Incident: Across from § 87(2)(b) on Abolitionist Place; Inside of § 87(2)(b) § 87(2)(b)	Precinct: 84	18 Mo. SOL 4/13/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 10/14/2020 12:14 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 10/14/2020 12:14 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Artem Prusayev	03066	956184	PSA 4
2. POF Justine Sallusto	10135	967682	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brandon Almonte	24212	968929	084 PCT
2. POM Almand Kucevic	20305	958780	084 PCT
3. LT Michael Iannuzzi	00000	948048	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Artem Prusayev	Abuse: Across the street from § 87(2)(b) on Abolitionist Place in Brooklyn, Police Officer Artem Prusayev threatened to remove § 87(2)(b) to the hospital.	
B. PO Artem Prusayev	Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev used physical force against § 87(2)(b)	
C. PO Artem Prusayev	Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev restricted § 87(2)(b)'s breathing.	
D. PO Artem Prusayev	Abuse: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev frisked § 87(2)(b)	
E. POF Justine Sallusto	Abuse: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto frisked § 87(2)(b)	
F. PO Artem Prusayev	Abuse: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev searched § 87(2)(b)	
G. POF Justine Sallusto	Abuse: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto searched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POF Justine Sallusto	Discourtesy: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto spoke discourteously to § 87(2)(b)	
I.P.O Artem Prusayev	Off. Language: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev made remarks to § 87(2)(b) based upon her mental status.	
J.P.O Artem Prusayev	Discourtesy: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev spoke discourteously to § 87(2)(b)	
K.P.O Artem Prusayev	Abuse: Police Officer Artem Prusayev forcibly removed § 87(2)(b) to the hospital.	
L.P.O Artem Prusayev	Off. Language: En route to § 87(2)(b) Hospital in Brooklyn, Police Officer Artem Prusayev made remarks to § 87(2)(b) based upon her mental status.	
M.P.O Artem Prusayev	Discourtesy: En route to § 87(2)(b) Hospital in Brooklyn, Police Officer Artem Prusayev spoke discourteously to § 87(2)(b)	

## Case Summary

On October 14, 2020, § 87(2)(b) filed this complaint with the CCRB via the call processing system.

On October 13, 2020, § 87(2)(b) was staying at a woman's shelter at § 87(2)(b) in Brooklyn. This shelter was operated by the New York City Department of Homeless Services (DHS) and was staffed with DHS officers in addition to shelter staff. Starting at approximately 5:00 p.m. that day, § 87(2)(b) called 911 several times to report that the shelter staff had thrown out her personal belongings, that DHS officers threatened her with pepper spray, and that she had been removed from the shelter. Police Officer Artem Prusayev and Police Officer Justine Sallusto of the 84<sup>th</sup> Precinct arrived at the location for § 87(2)(b)'s calls at least twice.

When PO Sallusto and PO Prusayev first arrived, PO Prusayev allegedly told § 87(2)(b) that she should not call 911 again because he would “EDP” her (**Allegation A: Abuse of Authority**, § 87(2)(g)). The last time that PO Prusayev and PO Sallusto arrived at the location, PO Prusayev decided to remove § 87(2)(b) to the hospital. In doing so, PO Prusayev allegedly held § 87(2)(b) by her right arm, put his right leg across both of her ankles and pushed her face down to the floor as he placed her in handcuffs (**Allegation B: Force**, § 87(2)(g)). PO Prusayev then allegedly placed his elbow in the middle of § 87(2)(b)'s back and his knee on her lower back to tighten her handcuffs, which restricted her breathing (**Allegation C: Force**, § 87(2)(g)). PO Sallusto and PO Prusayev then frisked and searched § 87(2)(b) (**Allegations D-G: Abuse of Authority**, § 87(2)(g)). While PO Sallusto searched § 87(2)(b), § 87(2)(b) allegedly kicked PO Sallusto, and PO Sallusto said to § 87(2)(b) “Stop fucking moving,” (**Allegation H: Discourtesy**, § 87(2)(g)).

While they waited for an ambulance to arrive, § 87(2)(b) tried to explain what happened and PO Prusayev allegedly told her that he did not comprehend anything that she was saying and that she was “crazy” (**Allegation I: Offensive Language**, § 87(2)(g)). **Allegation J: Discourtesy**, § 87(2)(g). PO Prusayev then removed § 87(2)(b) to § 87(2)(b) Hospital in Brooklyn (**Allegation K: Abuse of Authority**, § 87(2)(g)). On their way to the hospital, PO Prusayev allegedly told § 87(2)(b) that she did not understand anything, was “psycho”, needed to get “EDPed” and go to the hospital (**Allegation L: Offensive Language**, § 87(2)(g)). **Allegation M: Discourtesy**, § 87(2)(g)).

Allegations of Phase Two Sexual Misconduct were made in this case on October 20, 2020, which was after the Board passed the rules to investigate sexual misconduct but before the CCRB was fully staffed to investigate allegation of Phase Two Sexual Misconduct. Therefore, those allegations were referred to the Brooklyn DA's Office and were not investigated by the CCRB.

The investigation obtained body-worn camera recordings from PO Sallusto, PO Prusayev, Police Officer Brandon Almonte, Police Officer Almand Kucevic and Lieutenant Michael Iannuzzi of the 84<sup>th</sup> Precinct (**01 Board Review**). The investigation attempted to obtain

video footage from the incident location, but it expired (**02 Board Review**).

PO Prusayev has since been promoted to a sergeant and transferred to Police Service Area 04.

### **Findings and Recommendations**

**Allegation (A) Abuse of Authority: Across the street from § 87(2)(b) on Abolitionist Place in Brooklyn, Police Officer Artem Prusayev threatened to remove § 87(2)(b) to the hospital.**

It is undisputed that on October 13, 2020, § 87(2)(b) was staying at a women's shelter at § 87(2)(b) in Brooklyn, which was operated by DHS. On that morning however, § 87(2)(b) did not have a room at the shelter because she missed her curfew on an earlier date. At some point during that morning, § 87(2)(b) was involved in a dispute with another resident of the shelter and DHS officers removed § 87(2)(b) to the hospital as an emotionally disturbed person. Prior to being removed, § 87(2)(b) left some food and a water bottle at the shelter and confirmed with the shelter staff that they would keep it for her. § 87(2)(b) returned to the shelter shortly after and learned that someone had thrown away her food and the water bottle, which made her upset. § 87(2)(b) then made several calls to 311 to report the staff for throwing away her items and was transferred to 911 each time to have officers respond. § 87(2)(b) then walked outside of the shelter. While outside of the shelter, § 87(2)(b) called 911 several more times and reported that in addition to the staff throwing her stuff away, they removed her from the shelter. PO Prusayev and PO Sallusto responded to the location.

§ 87(2)(b) testified that during her first calls for help, she explained to the 911 operator that she wanted assistance with requesting that the director of the shelter reimburse her for property or make the staff find it (**03 Board Review**). A DHS officer then asked § 87(2)(b) to leave the shelter and she did. § 87(2)(b) stood directly across the street from the location and called 911 approximately eight times. § 87(2)(b) reported to the 911 operators that she was experiencing an emergency because she was not allowed to return to the shelter, and it was cold outside. When Sgt. Prusayev and PO Sallusto arrived, PO Prusayev confirmed with § 87(2)(b) that she called them. PO Prusayev then immediately told § 87(2)(b) that she could not keep calling 911, that she should not call again and that the next time she called, he would "EDP" her.

Sergeant Haydee Acevedo of DHS testified that § 87(2)(b) was not asked to leave the shelter (**04 Board Review**). When § 87(2)(b) noticed that 911 did not respond to her calls, she left the shelter on her own and stood across the street. DHS Sgt. Acevedo further noted that since DHS had their own police officers, when the NYPD received calls for incidents at locations where DHS has jurisdiction, DHS officers will handle the matter on their own. DHS Sgt. Acevedo believed that she heard over her radio that § 87(2)(b) called 911 approximately 20 times to complain about an unknown dispute. DHS Sgt. Acevedo stepped outside of the shelter when PO Prusayev and PO Sallusto approached § 87(2)(b) and heard that § 87(2)(b) was yelling and cursing at the officers. DHS Sgt. Acevedo heard the officers explain to § 87(2)(b) that she could not keep calling 911.

because she was not experiencing a police matter, but she did not hear either of the officers say anything about removing § 87(2)(b) to the hospital.

PO Prusayev testified that he heard over the radio that § 87(2)(b) had been calling 911 at least once an hour from 3:00 p.m. until 7:20 p.m. to complain about disputes that she was having with the DHS officers (**05 Board Review**). All those calls were referred to DHS officers because § 87(2)(b) called from inside the shelter. When § 87(2)(b) left the shelter, it became PO Prusayev's responsibility to respond to the calls. PO Prusayev recalled hearing over the radio that a DHS officer from the location called 911 and reported that § 87(2)(b) made a threat to someone with a knife. When PO Prusayev and PO Sallusto first responded to the location at approximately 7:32 p.m., § 87(2)(b) was across the street screaming at DHS Sgt. Acevedo who was on the other side of the street. § 87(2)(b) then started walking around between parked vehicles, to the middle of the street and then back to the sidewalk, which PO Prusayev found unsafe because cars were driving by. PO Prusayev then asked § 87(2)(b) what happened, and she yelled that someone stole her food and water bottle and kicked her out of the shelter. § 87(2)(b) appeared irate because she was yelling, pacing, and moving her open palms in a circular motion when she talked. § 87(2)(b) further noted that the DHS officers at the location would not be willing to let her back into the location because they removed her to the hospital earlier that day. PO Prusayev told § 87(2)(b) that with the way she was acting and yelling, he would have probably taken her to the hospital too.

PO Prusayev then spoke to DHS Sgt. Acevedo and confirmed that § 87(2)(b) would be able to go back into the shelter at 9:30 p.m. to get a room. Sgt. Prusayev then relayed this information to § 87(2)(b) and told her that there was nothing he could do about staff throwing her items away or threatening her with pepper spray. When PO Prusayev first arrived at the location, § 87(2)(b) could have been taken to the hospital because she was dangerous to herself and others because she was walking in and out of traffic and screaming at people, both of which are not normal behavior. He recalled that by the end of their interaction, he believed that § 87(2)(b) had calmed down and was good enough to stay at the location to wait for her room. Prior to leaving, PO Prusayev told § 87(2)(b) that she could not keep calling 911 because she was tying up their phone systems and that if they were called again, he would come back, and if she appeared to need an evaluation or need to go to the hospital, he would take her.

PO Sallusto's testimony was consistent with PO Prusayev's with a few exceptions (**06 Board Review**). PO Sallusto heard over the radio that § 87(2)(b) complained about someone threatening her with a knife. PO Sallusto also recalled that when they arrived, § 87(2)(b)'s behavior was inconsistent: at one point, she would speak in brief statements to the officers but in the next moment, she would yell and curse at them and say that she did not want their help. PO Sallusto did not recall whether PO Prusayev said anything to § 87(2)(b) about removing her to the hospital.

There were 18 NYPD EVENTS generated for this incident (**07 Board Review**). Most of them were calls from § 87(2)(b) to 311 and 911, complaining about shelter staff throwing her items out and DHS officers removing her out of the shelter. The first call to 911 regarding this incident, came from a shelter supervisor, known to the investigation as

§ 87(2)(b) which generated EVENT § 87(2)(b). § 87(2)(b) reported that § 87(2)(b) was a violent, bipolar, “EDP,” and having an episode. DHS officers were assigned to respond to this call. Between 5:21 p.m. and 5:32 p.m., § 87(2)(b) made three calls to 911 and reported that she was having a dispute with DHS staff because someone threw her belongings away. DHS officers were assigned to these calls. Between 5:44 p.m. and 7:08 p.m., § 87(2)(b) made 14 more calls to 311 and 911 to report that she wanted to file a report regarding DHS officers throwing her belongings away and removing her from her shelter. In EVENT § 87(2)(b), generated at 6:05 p.m., it is noted that § 87(2)(b) reported that the staff at the location threatened to use pepper spray against her and displayed a knife when kicking her out. PO Sallusto and PO Prusayev responded at 7:18 p.m. for EVENT § 87(2)(b), which noted that § 87(2)(b)'s shelter was refusing to let her in.

PO Prusayev's BWC recording from IA 35 shows that at 2:05 minutes, as PO Prusayev is approaching the shelter, § 87(2)(b) is across the street from the shelter speaking loudly (**01 Board Review**). § 87(2)(b) is standing between two parked cars, partially in the street, approximately two feet from the sidewalk. It is unclear who § 87(2)(b) is talking to. PO Prusayev initiates conversation with § 87(2)(b) from across the street and remains there while speaking to her. § 87(2)(b) appears to talk loudly to communicate with PO Prusayev but it does not sound like she is yelling. PO Prusayev appears to also be standing in the street near parked cars. Cars drive by in between § 87(2)(b) and PO Prusayev without an issue. § 87(2)(b) explains to Sgt. Prusayev that the shelter removed her from there and she needs assistance with finding a place to stay. At 3:20 minutes, PO Prusayev starts to walk toward the shelter and § 87(2)(b) tells him that DHS Sgt. Acevedo threatened her with pepper spray. PO Prusayev replies that § 87(2)(b) threatened someone with a knife and § 87(2)(b) denies this and tells PO Prusayev to ask the staff whether she did so. At 3:26 minutes, PO Prusayev tells § 87(2)(b) that she was going to go to the hospital “if she did not stop.” At 3:56 minutes, DHS Sgt. Acevedo explains to PO Prusayev and PO Sallusto that § 87(2)(b) suffers from bipolar disorder and depression, and she was not taking medication. DHS Sgt. Acevedo further states that § 87(2)(b) had been removed to the hospital earlier that day and has returned. While they are talking, § 87(2)(b) is yelling across the street that DHS Sgt. Acevedo threatened her with a knife and pepper spray and that the shelter staff was not helping her. At 4:15 minutes, DHS Sgt. Acevedo explains that while § 87(2)(b) was at the hospital, staff threw away her food and water bottle and that made § 87(2)(b) upset so she attempted to hit a staff member. DHS Sgt. Acevedo notes that an ambulance was called a second time and they refused to take § 87(2)(b). PO Prusayev then returns to speak with § 87(2)(b) at 6:30 minutes and she is standing in the same location. PO Prusayev then asks § 87(2)(b) to step on the sidewalk and walks onto the sidewalk with her. At 7:40 minutes, § 87(2)(b) asks PO Prusayev to ask the shelter staff if she could be transferred to another shelter because if she tried to ask them, they would “EDP” her again. At 7:49 minutes, Sgt. Prusayev says, “If you keep raising your voice, the way you are now, I’d EDP you too.” At 8:13 minutes, PO Prusayev tells § 87(2)(b) “If you keep doing this, we’re going to keep coming back here, and I am going to take you to the hospital, and I’m going to make sure you get admitted because you are acting erratic.”

At 8:21 minutes, § 87(2)(b) tells the officers that the shelter threw away her water bottle

and she wants to make a police report. PO Prusayev responds that he could not do anything about that because she abandoned property and there was no police report for throwing out garbage. § 87(2)(b) then says that DHS Sgt. Acevedo threatened her with pepper spray and Sgt. Prusayev states that she was allowed to make that threat to gain compliance. § 87(2)(b) then asks for a supervisor to respond to her location and PO Prusayev says no. At that point, § 87(2)(b) tells the officers to leave, and she was going to report them. At 9:06 minutes, § 87(2)(b) begins speaking louder and tells the officers to leave because they cannot help her. She also calls PO Prusayev a “bitch” and tells him to “get the fuck out of [t]here.” The officers then leave the location.

NYPD Patrol Guide Procedure 221-13 notes that the primary duty of all members of service is to preserve human life (**08 Board Review**). If an individual is dangerous to themselves or others, officers should remove the individual to the hospital as an emotionally disturbed person. The procedure further defines an emotionally disturbed person as one who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.

PO Prusayev and PO Sallusto responded to § 87(2)(b)'s location after she called for help approximately 18 times. The first time PO Prusayev told § 87(2)(b) that he would remove her to the hospital, he testified that he did so because she was pacing in between parked cars, near moving vehicles and screaming at people. The BWC showed that when he made this statement, § 87(2)(b) was speaking loudly to him and DHS Sgt. Acevedo to communicate with them, who were both standing approximately 10 to 15 feet away from her. The recording did confirm that § 87(2)(b) was partially in the street while cars drove by, however PO Prusayev stood in the same position on the other side of the street and left § 87(2)(b) standing in the same spot for approximately four minutes before guiding her to the sidewalk. Car traffic was not obstructed by neither § 87(2)(b) nor PO Prusayev. § 87(2)(b) did not pace and if PO Prusayev considered § 87(2)(b)'s position to be dangerous to herself or others, he would have immediately guided her to the sidewalk. When PO Prusayev told § 87(2)(b) that he “would have removed her to the hospital too,” he said so because § 87(2)(b) was yelling, pacing, and moving her hands in a circular motion when she talked. As mentioned, the BWC shows that § 87(2)(b) stood still and was not pacing. Also, the recording captures § 87(2)(b) speaking loud enough to communicate with DHS Sgt. Acevedo who was across the street, but she was not yelling. The last time PO Prusayev told § 87(2)(b) that he would take her to the hospital, he did so to inform her that if he was called back to the location, he would evaluate her to determine whether she appeared to need to go to the hospital and send her if necessary. PO Prusayev also testified though that by the time of this statement, § 87(2)(b) had calmed down enough for him to leave her at the location, and he did not believe that she needed to go to the hospital. Furthermore, right before the officers left, § 87(2)(b) was the loudest she had been since they arrived at the location and was at that point using profanity. It was apparent that she was the most upset and possibly dangerous to others after the threats to remove her to the hospital were made and prior to the officers leaving, however the officers did not address her behavior then and did not remove her to the hospital. § 87(2)(b) did call for help 18 times, which is a significant number of 911 calls, however she was outside in the cold, believed that she was experiencing an emergency, and no one addressed her concerns.

§ 87(2)(g)

**Allegation (K) Abuse of Authority: Police Officer Artem Prusayev forcibly removed § 87(2)(b) to the hospital.**

**Allegation (B) Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev used physical force against § 87(2)(b)**

**Allegation (C) Force: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev restricted § 87(2)(b)'s breathing.**

**Allegation (H) Discourtesy: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto spoke discourteously to § 87(2)(b)**

It is undisputed that during PO Prusayev's first visit to the location, he told § 87(2)(b) that there was nothing he could do about the staff throwing her things away and threatening to use pepper spray against her. After PO Prusayev and PO Sallusto left the location, § 87(2)(b) continued to call 311 and 911 to complain about the shelter staff throwing her things out and being threatened with pepper spray. PO Prusayev and PO Sallusto arrived at the location again and removed § 87(2)(b) to § 87(2)(b) Hospital in Brooklyn.

§ 87(2)(b) did not testify to Allegation H, and it was pleaded from PO Prusayev's BWC recording.

§ 87(2)(b) testified that prior to PO Prusayev leaving the location during his first visit, he told § 87(2)(b) to go into the shelter and speak nicely to the staff regarding her concerns (03 Board Review). When the officers left, § 87(2)(b) went into the shelter and the staff told her that she could wait in the shelter for her room and provided her with dinner. § 87(2)(b) then called 311 again and reported that PO Prusayev and PO Sallusto said that they could not help her with her previous complaint about her shelter staff throwing her things out. The 311 operator then asked § 87(2)(b) if she wanted to make a complaint with the police and she agreed.

PO Prusayev and PO Sallusto then arrived back to the location, walked to § 87(2)(b) who was in the shelter lobby, and asked her why she kept calling 911. § 87(2)(b) responded that she was calling 311 and that they were transferring the call. PO Prusayev then immediately took § 87(2)(b)'s left and right arm, put them behind her back and placed her in handcuffs. He then held her by her right arm and put his right leg across the front of both of her ankles and pushed her face down to the floor. As she was on the floor, § 87(2)(b) felt PO Prusayev place one of his elbows on the middle of her back, one of his knees in her lower back and tighten the handcuffs on her wrists. PO Prusayev applied pressure through his elbow and knee on § 87(2)(b)'s back and was positioned like this for 15 minutes. § 87(2)(b) began to yell and cry. § 87(2)(b) said to the officers that she could not breathe, and PO Prusayev told her that she could breathe because she was speaking. § 87(2)(b) explained to the investigator that she could not breathe because she was exhausted, her chest was against the floor and because PO Prusayev had his elbow and knee on her back.



§ 87(2)(b) saw DHS Sgt. Acevedo and another DHS officer in the lobby at that time.

DHS Sgt. Acevedo testified that when PO Prusayev and PO Sallusto arrived the second time, one of the shelter staff members called over the radio and asked for DHS police to go to the lobby (**04 Board Review**). When DHS Sgt. Acevedo arrived in the lobby, § 87(2)(b) was already handcuffed and sitting upright on the lobby floor and PO Prusayev was on his knees behind § 87(2)(b) holding her by the chain of her handcuffs. DHS Sgt. Acevedo did not see PO Prusayev or PO Sallusto touch anything on § 87(2)(b) but the chain of her handcuffs.

The incident report from the location notes that on the incident date, DHS Sgt. Acevedo, DHS Police Officer A. Barry, DHS Police Officer Amber Griffin, Shift Supervisor § 87(2)(b) and Shift Supervisor § 87(2)(b) were working (**09 Board Review**). The report further notes that § 87(2)(b) was acting irate by excessively calling 911 and 311 and making false statements to the NYPD against DHS and shelter staff. It notes that § 87(2)(b) was informed by PO Prusayev and PO Sallusto how she could file complaints online regarding her concern. § 87(2)(b) continued to call 911 and yell and scream. NYPD officers then arrived at the location, handcuffed § 87(2)(b) and removed her to the hospital. DHS PO Griffin stated that she was on a different floor and did not witness anything that happened between § 87(2)(b) and NYPD officers (**10 Board Review**).

DHS PO Barry's statement was consistent with DHS Sgt. Acevedo's (**11 Board Review**). DHS PO Barry did not see the officers do anything to § 87(2)(b) which would have affected her breathing and he did not hear § 87(2)(b) say that she could not breathe. DHS PO Barry also did not see any interaction between § 87(2)(b) PO Prusayev and PO Sallusto prior to her being handcuffed. The investigation was unable to obtain statements from § 87(2)(b) or § 87(2)(b) because they did not work at the shelter anymore and remained unavailable to the investigation (**12,13 ,14 Board Review**).

As mentioned before, PO Prusayev testified that prior to leaving the location, he told § 87(2)(b) that she needed to wait until 9:30 p.m. to go into the shelter to get a room. When he arrived back to the location at 8:52 p.m., he met with § 87(2)(b) in the lobby of the shelter (**05 Board Review**). An unidentified DHS officer told him that § 87(2)(b) was not supposed to be in the shelter at that time because it was not 9:30 p.m. PO Prusayev recalled telling § 87(2)(b) to calm down, that she only had approximately 20 minutes to get a bed and that she could not keep calling 911 because she was not experiencing an emergency. § 87(2)(b) then began to yell and make another 911 call. At that point, § 87(2)(b) was sweaty, and her eyes were dilated. PO Prusayev then instructed § 87(2)(b) to go outside and speak with him so that he would be able to successfully get her the bed. § 87(2)(b) did not go outside. Sgt. Prusayev then told § 87(2)(b) that she was going to the hospital because she was not understanding what PO Prusayev said to her: she continued to call the police, did not step outside when he asked and had been screaming for hours. PO Prusayev believed that § 87(2)(b) was suffering a manic episode and did not believe that he could leave § 87(2)(b) at the shelter while she was actively screaming.

PO Prusayev then walked toward § 87(2)(b) and stepped in front of her so that she could not leave (**05 Board Review**). § 87(2)(b) then tensed her body up by extending both of

her arms closed fists out and downward to the sides of her body as if she were refusing to go to the hospital. PO Prusayev decided at that point that it would be safer for her, him, and everyone else in the lobby to place handcuffs on § 87(2)(b). He then got his handcuffs, told § 87(2)(b) to put her hands behind her back, and attempted to place § 87(2)(b)'s wrists in the handcuffs. § 87(2)(b) then started kicking her legs, moving her body from side to side, and pulling her body away from PO Prusayev. § 87(2)(b) kicked her legs out in a “tantrum” and did not appear to intentionally kick toward anyone, but she did kick PO Sallusto’s legs. PO Prusayev told § 87(2)(b) not to kick his partner and PO Sallusto also told § 87(2)(b) not to kick her. PO Prusayev and PO Sallusto experienced some trouble getting § 87(2)(b) in handcuffs but did not need to use force to do so. They each got a hold of both of her arms and moved them closer to each other. PO Prusayev then sat § 87(2)(b) down on the floor by placing two of his open palms on her shoulders. He did not use any pressure to do this and sat her down because she was kicking. § 87(2)(b) immediately laid on her side and started kicking more. § 87(2)(b) tried to get up and PO Prusayev held her down by the chain of her handcuffs and put one of his feet over one of § 87(2)(b)'s feet to prevent her from kicking. § 87(2)(b) then began yelling that she could not breathe but at that point, he was holding § 87(2)(b) by the chain of her handcuffs. § 87(2)(b) continuously laid on her side and said that she could not breathe. When she said this, PO Prusayev sat her upright but did not know why § 87(2)(b) could not breathe nor why she said this. PO Prusayev denied using force against § 87(2)(b) and restricting her breathing.

PO Sallusto’s testimony was consistent with PO Prusayev’s with a few exceptions (**06 Board Review**). PO Sallusto did not recall exactly what happened with § 87(2)(b) prior to PO Prusayev making the decision to remove her to the hospital. She knew that they were concerned about § 87(2)(b) yelling throughout the day and did not want anyone to get hurt. Once they told § 87(2)(b) that she was going to the hospital, she began screaming and stated that she did not want to go to the hospital. PO Sallusto knew that after placing the handcuffs on her, PO Prusayev sat § 87(2)(b) down on the floor but she did not recall how he did so. PO Prusayev held onto § 87(2)(b)'s handcuffs until the ambulance arrived. PO Sallusto did not witness the force that was alleged but did hear § 87(2)(b) say that she could not breathe. PO Sallusto believed that § 87(2)(b) said that she could not breathe because she was crying and screaming and may have believed that she was having a hard time breathing. PO Sallusto further noted that as she attempted to search § 87(2)(b), § 87(2)(b) kicked her legs, and kicked PO Sallusto. PO Sallusto then told § 87(2)(b) to “stop fucking moving.” She used the word “fucking” for emphasis because she wanted § 87(2)(b) to stop kicking her but did not mean it in a foul way.

The investigation was unable to obtain § 87(2)(b)'s medical records because § 87(2)(b) did not return her HIPAA form (**15 Board Review**). An AIDED report completed by PO Sallusto noted that § 87(2)(b) continuously called 911 and included a complaint about a knife (**16 Board Review**). The report further noted that when officers responded, they advised § 87(2)(b) not to lie about a knife and sought assistance for her housing situation. After officers left, § 87(2)(b) continued to call 911 complaining that a DHS officer threatened her with pepper spray. At some point, officers learned that § 87(2)(b) suffers from bipolar disorder and depression and not taking medication. When they returned to the location, § 87(2)(b) told the officers that she was not calling 911. Officers considered § 87(2)(b)

§ 87(2)(b) to be suffering a manic episode and removed her to the hospital. A request for a Threat, Resistance and Injury Report was returned with negative results (**17 Board Review**). NYPD 911 communications confirmed that § 87(2)(b) called 311 at least three times after the officers left and was transferred to 911 to file a police report regarding DHS officers throwing her belongings away (**18 Board Review**).

At 6:05 minutes of PO Prusayev's first BWC recording from IA35, PO Prusayev speaks to an unidentified shelter staff member who states that § 87(2)(b) needed to wait outside until 9:30 pm, until he could go and get her bed (**01 Board Review**). At 8:10 minutes of the recording, PO Prusayev explains to § 87(2)(b) that if she walks into the shelter at 9:30 p.m. speaking calmly, she will get a bed.

PO Prusayev's second BWC recording from IA 35 shows that at the beginning, PO Prusayev is in the shelter lobby, standing at a desk, speaking to a male staff member, however there is no audio. § 87(2)(b) is standing on the opposite side of the desk, leaning against it, and talking to PO Sallusto. § 87(2)(b) uses her right hand and extends it outward while talking. At 15 seconds, § 87(2)(b) raises her phone to her ear. It appears that PO Prusayev speaks to § 87(2)(b) because he steps toward her and makes an open palm gesture. § 87(2)(b) appears to reply while taking a step back from the officers. § 87(2)(b) appears to be calm, although it is unclear whether she is yelling. At 29 seconds, it appears that § 87(2)(b) mouths, "I didn't call y'all." PO Prusayev then speaks to § 87(2)(b) while using the edge of his right palm to repeatedly hit the desk, in a chopping motion. At 48 seconds, PO Prusayev walks toward § 87(2)(b) and immediately takes a hold of her right arm and proceeds to walk behind her. At 53 seconds, § 87(2)(b)'s right arm is bent with a closed fist raised a few inches from her underarm. PO Sallusto has a hold of § 87(2)(b)'s left arm. At 59 seconds, § 87(2)(b)'s face is visible, and she does not appear sweaty although she is wearing a sweater, hat, jacket, and facemask at that time. At 1:00 minute, when the audio begins, PO Prusayev pulls § 87(2)(b)'s right arm back and tells her that she is going to the hospital. § 87(2)(b) asks why, and PO Prusayev tells her that "clearly", she is not understanding and is abusing {an inaudible word}. At 1:09 minutes PO Prusayev has both of § 87(2)(b)'s arms behind her in handcuffs and PO Sallusto is holding onto § 87(2)(b) by her left upper arm. At 1:13 minutes, § 87(2)(b) jerks her body to the right and asks, "Why are you touching my phone?" § 87(2)(b) then yells, "Ow," however it is unclear what contact officers made with her. She then turns her body to the right to face PO Prusayev and loudly says, "Excuse me." § 87(2)(b)'s body then jerks forward, and it is unclear how this motion occurred; however, PO Prusayev is the only person contacting § 87(2)(b). § 87(2)(b) then yells, "Ow," again. As § 87(2)(b)'s body jerks forward, she falls to a sitting position and PO Prusayev says, "Sit down," and § 87(2)(b) yells, "Ow." At this point, the video shows that PO Prusayev is holding the chain of § 87(2)(b)'s handcuffs. PO Sallusto is not in view.

At 1:25 minutes, § 87(2)(b)'s legs are in the view and her right leg is under her left leg which is extended outward. § 87(2)(b) repeatedly yells, "Ah," and lays to her right side. At 1:40 minutes, § 87(2)(b) is back to sitting upright and PO Prusayev says, "Stay seated." and uses his right open palm to push down on § 87(2)(b)'s left shoulder, which causes her to lay back on her side. At 1:41 minutes, PO Sallusto is in the view and is standing approximately two inches from § 87(2)(b) feet. At 1:43 minutes, PO Prusayev

is using his left hand to hold onto the chain of § 87(2)(b)'s handcuffs and his right hand to hold § 87(2)(b)'s upper left arm keeping her lying on her side. § 87(2)(b)'s feet are then folded backward and at 1:50 minutes, it is apparent that PO Prusayev is stepping on § 87(2)(b)'s left foot. At 1:55 minutes, § 87(2)(b) asks PO Prusayev if she could get off her feet and he says no. At 2:05 minutes, PO Sallusto kneels in front of § 87(2)(b) to search her, and at 2:08 minutes, § 87(2)(b) says, "Ow my fucking wrist hurts." § 87(2)(b)'s left foot is under PO Prusayev's and her right foot is still bent backward. § 87(2)(b) then starts crying and shaking her right leg, which is either near or under PO Sallusto's knelt right leg. § 87(2)(b)'s foot can be seen behind PO Sallusto and she is not kicking. At 2:12 minutes, PO Sallusto tells § 87(2)(b) to "stop fucking moving." At 2:22 minutes, § 87(2)(b) is face down on the floor, and it is not clear if she laid there on her own or if officers guided her there. At 2:56 minutes, § 87(2)(b) is now lying on her side and says that she cannot breathe. Her full upper body is in the view, and it does not appear that anything is restricting her breathing. PO Prusayev tells § 87(2)(b) to take deep breaths. At 3:11 minutes, PO Prusayev tells § 87(2)(b) to sit up and guides her up. As § 87(2)(b) sits up, PO Sallusto is standing near § 87(2)(b)'s legs and § 87(2)(b) kicks her as she sits up. At this point, PO Prusayev says, "Don't kick my partner." PO Sallusto does not say anything. § 87(2)(b) continues to kick her legs outward, cry, and says, "Mr. that hurts." § 87(2)(b) says that she cannot breathe a few more times, however she is sitting upright, and PO Prusayev is either holding her up by her shoulders or holding the chain of her handcuffs.

At 3:40 minutes of the same recording, PO Prusayev tells § 87(2)(b) that she could not keep abusing authorities all day. At 3:42 minutes, § 87(2)(b) says that she did not do anything. PO Prusayev says that she was screaming at the top of her lungs, throwing things at people, not understanding anything he said to her and that "clearly", she was not in the right state of mind and needed to go to the hospital. No other BWC recordings capture the alleged misconduct (**01 Board Review**).

NYPD Patrol Guide Procedure 221-13 notes that the primary duty of all members of service is to preserve human life (**08 Board Review**). If an individual is dangerous to themselves or others, officers should remove the individual to the hospital as an emotionally disturbed person. The procedure further defines an emotionally disturbed person as one who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. If such person is dangerous to himself or others, necessary force may be used to prevent serious physical injury or death. Physical force will be used ONLY to the extent necessary to restrain the subject until delivered to a hospital or detention facility.

NYPD Disciplinary Case no. 2017-17005 states that profane remarks made by police officers during stressful situations, or while an officer is trying to gain control of a chaotic situation, is not misconduct. (**19 Board Review**). However, an officer making profane remarks which do not serve the purpose of controlling a stressful a chaotic situation, is committing misconduct. NYPD Patrol Guide Procedure 200-02 states that uniformed members of service must render their services with courtesy and civility (**20 Board Review**). NYPD Patrol Guide Procedure 203-09 further outlines that public contact

guidelines for members of service, indicates that interactions with members of the public should be conducted in a professional manner (**21 Board Review**).

PO Prusayev testified that he decided to remove § 87(2)(b) to the hospital because she was not understanding what PO Prusayev said to her about him not being able to help regarding her issue with DHS, she continued to call the police, did not step outside when he asked and had been screaming for hours. He further noted that he believed that § 87(2)(b) was experiencing a manic episode. According to § 87(2)(b) she was only standing in the lobby when PO Prusayev made this decision. § 87(2)(b) also testified that the staff allowed her to stay inside. Although DHS Sgt. Acevedo testified that no one told § 87(2)(b) to leave the shelter, the BWC recording did capture a shelter staff member stating that § 87(2)(b) needed to wait until 9:30 pm to go back in the shelter. Beside this factor, the investigation could not determine how not understanding NYPD's jurisdiction, continuously making calls for help, and screaming for hours, without injury, would be considered dangerous behavior. This was PO Prusayev's second time arriving at the location for the same reason and § 87(2)(b) did call for help approximately 20 times by then, which was an excessive amount, however her concerns were not addressed by DHS officers and NYPD officers told her that they were unable to help her. PO Prusayev had previously explained to § 87(2)(b) that he could not do anything about staff throwing her things away, however when § 87(2)(b) called 311, they transferred her to 911 and led her to believe that it was a police matter. In his BWC recording, when speaking to § 87(2)(b) PO Prusayev added that she threw things at people, however it is unclear where he got that information from, and he did not testify to this. Additionally, the BWC does not capture any audio between § 87(2)(b) and the officers when the decision to remove her to the hospital was made, but it does show that only 48 seconds goes by before PO Prusayev initiates the removal. The investigation determined that it would have been reasonable for PO Prusayev to thoroughly explain to § 87(2)(b) how she could have resolved her concern or request his supervisor as she requested, so that she would not call them back to the location. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Prusayev made the decision to remove § 87(2)(b) to the hospital and was then allowed to use a necessary amount of force against § 87(2)(b) to prevent serious physical injury or death. Although PO Prusayev denied using force, the BWC shows that PO Prusayev did not take § 87(2)(b) to the floor in the way that she alleged but that he did use an unknown amount of force to sit her on the floor. The view shows that PO Prusayev is contacting § 87(2)(b) by her handcuffs, and that she yells in pain as she sits on the floor, but the view does not show what PO Prusayev does to inflict pain on § 87(2)(b) nor exactly how he got her to the floor. The investigation is unable to determine what action PO Prusayev took to get § 87(2)(b) to the floor and whether his action inflicted pain upon § 87(2)(b). The BWC also shows that other than § 87(2)(b) turning her body to address PO Prusayev, she did not make any other movements or statements. It did not appear that § 87(2)(b) was acting in a manner that could have caused serious physical injury or death and she was not kicking, as PO Prusayev testified. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Although § 87(2)(b) testified that PO Prusayev restricted her breathing by placing his elbow and knee on her back, the video evidence shows that this does not happen. § 87(2)(g)

PO Sallusto testified that when she told § 87(2)(b) to “stop fucking moving” it was because § 87(2)(b) kicked her. The BWC showed that § 87(2)(b) s feet were in no position to kick PO Sallusto and that § 87(2)(b) was shaking her leg, while saying she was in pain, prior to PO Sallusto making the statement. Even if PO Sallusto believed that § 87(2)(b) s movements under her legs were kicks, § 87(2)(b) was handcuffed on the floor and was being held by PO Prusayev, so this situation was not stressful and chaotic.

**Allegation (D) Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev frisked § 87(2)(b)**

**Allegation (E) Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto frisked § 87(2)(b)**

**Allegation (F) Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev searched § 87(2)(b)**

**Allegation (G) Abuse of Authority: Inside of § 87(2)(b) in Brooklyn, Police Officer Justine Sallusto searched § 87(2)(b)**

It is undisputed that PO Prusayev decided to remove § 87(2)(b) to the hospital as an emotionally disturbed person.

§ 87(2)(b) testified that once she was handcuffed and, on the floor, PO Prusayev used a dragging motion with his hands to touch the outside of § 87(2)(b) s back pockets and the front of § 87(2)(b) s pants (**03 Board Review**). PO Sallusto also touched the front of § 87(2)(b) s pants. The search allegations are being pleaded based on the video footage and officer testimonies.

PO Prusayev testified that he told PO Sallusto to search § 87(2)(b) because she was in their custody and he wanted to make sure she did not have anything on her to hurt the officers, EMS or herself (**05 Board Review**). PO Sallusto and PO Prusayev then searched § 87(2)(b) PO Prusayev searched § 87(2)(b) s jacket pockets because they were reachable for her, and he did not want § 87(2)(b) to have anything unsafe in her pockets. PO Prusayev recalled that he and PO Sallusto patted all of § 87(2)(b) s pockets down before they went into them to ensure there was nothing unsafe in them. PO Sallusto knew

that they searched § 87(2)(b) but did not recall if they frisked her **(06 Board Review)**. PO Sallusto explained that if they did frisk § 87(2)(b) it was to ensure that there was nothing sharp in her pockets that would stab them.

PO Prusayev's second BWC recording from IA35 shows that starting at 1:35 minutes, while § 87(2)(b) is sitting upright and handcuffed, he enters her left jacket pocket and then enters her right jacket pocket **(01 Board Review)**. At 2:03 minutes of the recording, PO Prusayev tells PO Sallusto to "check her." PO Sallusto then enters § 87(2)(b)'s left jacket pocket at 2:19 minutes, it appears that PO Sallusto touches § 87(2)(b)'s waist band area. She proceeds to look under into § 87(2)(b)'s jacket hood and on the inside of the top of her jacket.

NYPD Patrol Guide Procedure 221-13 notes that when a uniformed member of service reasonably believes that an individual is mentally ill or emotionally disturbed, conducting themselves in a manner which would likely result in serious injury to himself or others, the member of service may take the individual into protective custody to prevent serious injury **(08 Board Review)**. The procedure further notes that once the person has been restrained, officers should remove property that is dangerous to life or will aid escape.

PO Prusayev and PO Sallusto testified that once PO Prusayev decided to remove § 87(2)(b) to the hospital, they searched her to ensure that she did not have anything unsafe on her person. While the BWC showed that PO Sallusto frisked § 87(2)(b) it did not show PO Prusayev doing so. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (I) Offensive Language: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev made remarks to § 87(2)(b) based upon her mental status.**

**Allegation (J) Discourtesy: Inside of § 87(2)(b) in Brooklyn, Police Officer Artem Prusayev spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that as she waited with PO Prusayev and PO Sallusto for an ambulance to arrive, she attempted to explain her side of the story **(03 Board Review)**. PO Prusayev then said that § 87(2)(b) could not comprehend what he was saying, and she was "crazy" and needed to be in a "psych ward."

PO Prusayev denied making these statements and said that he only told § 87(2)(b) that she was acting out **(05 Board Review)**. PO Sallusto testified that she did not hear PO Prusayev make the alleged statement **(06 Board Review)**. She further noted that PO Prusayev did tell § 87(2)(b) that they had explained to her throughout the day what her options were and that she was not comprehending what they were trying to say to her.

PO Prusayev's second BWC recording from IA35 shows that at 7:13 minutes, § 87(2)(b) is sitting upright in the shelter lobby and tells PO Prusayev that she was already "EDPed"

earlier that day with tight handcuffs and that she was told that she was not supposed to go to the hospital again **(01 Board Review)**. PO Prusayev then responds at 7:18 minutes that § 87(2)(b) knows that the definition of insanity is to keep repeating the same actions and expecting different results. No other BWC recordings capture PO Prusayev making additional statements about § 87(2)(b)'s mental health **(01 Board Review)**.

After reviewing his BWC, PO Prusayev stated that he was not calling § 87(2)(b) insane but was describing her behavior as such **(05 Board Review)**.

NYPD Patrol Guide Procedure 203-09 notes that public contact guidelines for members of service, indicates that interactions with members of the public should be conducted in a professional manner **(21 Board Review)**. Patrol Guide Procedure 203-10 states that officers are to be courteous and respectful when interacting with civilians **(22 Board Review)**. It also prohibits officers from making disrespectful remarks based on appearance or disability.

§ 87(2)(b) testified that PO Prusayev called her “crazy” and said that she needed to be in a “psych ward”, however the BWC shows that he did not make these statements. The BWC does record PO Prusayev using the word insanity to describe § 87(2)(b)'s behavior, which could have been reasonably interpreted by § 87(2)(b) to mean that he was referring to her as such a person. According to the patrol guide, PO Prusayev is not allowed to make disrespectful remarks based upon § 87(2)(b)'s mental capacity and is required to act professionally with members of the public. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (L) Offensive Language: En route to § 87(2)(b) Hospital in Brooklyn, Police Officer Artem Prusayev made remarks to § 87(2)(b) based upon her mental status.**

**Allegation (M) Discourtesy: En route to § 87(2)(b) Hospital in Brooklyn, Police Officer Artem Prusayev spoke discourteously to § 87(2)(b)**

It is undisputed that PO Prusayev escorted § 87(2)(b) in the ambulance as she was transported to § 87(2)(b) Hospital in Brooklyn. PO Sallusto was not present, however Emergency Medical Technician (EMT) § 87(2)(b) was.

§ 87(2)(b) testified that as they rode to the hospital, PO Prusayev told her, “You don’t understand anything”, “You’re psycho,” and “You need to get EDPed and go to the hospital,” **(03 Board Review)**.

PO Prusayev denied making most of the alleged statements **(05 Board Review)**. PO Prusayev testified that he may have said that § 87(2)(b) needed to get EDPed but that he did not recall doing so.

EMT § 87(2)(b) did not recall transporting § 87(2)(b) and did not recall hearing an officer making the alleged statements **(23 Board Review)**.



PO Prusayev's second BWC recording IA35 shows that at the end of his recording, he was inside of the ambulance with § 87(2)(b) but deactivated his BWC prior to leaving the location **(01 Board Review)**.

According to NYPD Patrol Guide Procedure 212-123 officers are required to record their interaction with emotionally disturbed individuals, however they are prohibited from doing so in a medical facility **(24 Board Review)**. Officers may reasonably believe the inside of an ambulance as an extension of a medical facility.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party **(25 Board Review)**.
- PO Prusayev has been a member of service for eight years and has been a subject in eight other CCRB complaints and 21 other allegations, none of which were substantiated. PO Prusayev has been a subject of one force allegation in case 201703181, which was closed as mediation attempted, one force allegation in case 201704119, which was closed as mediated, one force allegation in case 201806868, which was closed as complainant uncooperative, one force allegation in case 202001862, which was closed pending litigation, and three force allegations for case 202007562 which are still under investigation.
- PO Sallusto has been a member of service for two years and is a subject in one other CCRB complaint and one other allegation, which is still under investigation. § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- The CCRB is not mediating cases at this time.
- As of January 5, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint **(26 Board Review)**.

• § 87(2)(b)

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Squad: 3

Investigator: Tileyah Williams      Investigator TileyahWilliams      02/03/2022  
Signature      Print Title & Name      Date

Squad Leader: Olga Golub      IM Olga Golub      02/03/2022  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_  
Signature      Print Title & Name      Date